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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,095	05/31/2006	Reinhard Erwin Jackson	3953001USPCT	5372

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EXAMINER

VENNE, DANIEL V

ART UNIT	PAPER NUMBER
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3617

MAIL DATE	DELIVERY MODE
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01/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/581,095	Applicant(s) JACKSON, REINHARD ERWIN	
	Examiner Daniel V. Venne	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8,10-14 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8,10-14 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. An amendment was received by applicant on 12/14/2007.
2. Claims 8 and 10 are amended.
3. Claims 1-7, 9 and 15-21 are cancelled.
4. Claim 22 is new.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 8, 10-14 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. Claim 8 recites the limitation "the canoe" in line 4. There is insufficient antecedent basis for this limitation in the claim. Claims 10-14 and 22 are dependent on claim 8 are therefore also rejected as lacking antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8, 12 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (US 6165030). Lewis discloses a pedal driven propulsion device comprised of a propeller assembly, steering assembly, drive assembly and mounting assembly for mounting the device on the gunwales of a watercraft. Specifically, Lewis discloses a pedal driven propeller and drive shaft apparatus, comprising a substantially quadrilateral frame adapted to be simply placed across the gunwales of a canoe [80] without needing clamps, bolts or other devices to secure it in place (the device may be placed across the gunwales and used without having to use the clamps since the device can be wedged against the curvature of the gunwales or placed up against cross bars or handles commonly provided within the canoe for carrying purposes), pedal crank means [12], pulley means [16, 18], flexible cable drive (chain) means [14], transverse drive shaft [44], propeller means [52], longitudinal drive shaft [50, 54] pivotally mounted to raise the propeller means (via tilting mechanism [160]), and configured as generally claimed (Figs. 1-8). Lewis does not disclose a seat means mounted on the frame. However, since the device is mounted on the gunwales of the canoe to be operated by a person seated on a seat of a canoe, the device when mounted to the canoe would also provide a seat which would be then mounted to the frame of the device by virtue of the seat being part of the canoe that is mounted to the device. A pulley can be wheel or a gear that turns to transmit power. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to which said subject matter pertains to use the device of Lewis mounted to a canoe or similar watercraft in order to use the device as intended by applicant. Pulley means

[18] and longitudinal drive shaft [50, 54] are mounted to and supported by a frame secured to and rotatable about a round tube portion (upper part of propeller assembly [50] connected to bracket [96]) of the quadrilateral frame (propeller assembly [50] is connected to quadrilateral frame); a tilting mechanism [160] for tilting the propeller assembly [50] is provided to make the invention more useful during operation (col. 5, lines 1-4); in addition, the propeller assembly [50] is rotatively responsive to the steering assembly [90], about a longitudinal axis of the tubular drive shaft [44], when the propeller assembly [50] is tilted (col. 6, lines 12-15). The position of the propeller means backward of the operator seat means toward the back end of the watercraft carries little patentable weight since it would be obvious to adjust the length of longitudinal drive shaft as well as its relative position to the seat as design choices to suit various operation conditions such that when partially raising or tilting the shaft, the propeller may be positioned backward (behind) the operator seat means.

Allowable Subject Matter

10. Claims 10, 11, 13 and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. No arguments were provided with applicant's remarks. Applicant's amendment necessitated new grounds of rejection introduced by this office action.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel V. Venne whose telephone number is (571) 272-7947. The examiner can normally be reached between 7:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DW
DWV
7 January 2008

LARS A. OLSON
PRIMARY EXAMINER

Lars Olson
1/7/08